

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN G. NEILL and U.S. POSTAL SERVICE,
GENERAL MAIL FACILITY, Philadelphia, PA

*Docket No. 99-1755; Submitted on the Record;
Issued July 25, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant established that he has greater than a 15 percent permanent impairment of the right upper extremity, for which he received a schedule award.

The Board has given careful consideration to the issue involved, appellant's contentions on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office of Workers' Compensation Programs dated January 28, 1999 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.¹

¹ Section 8107 of the Federal Employees' Compensation Act, 5 U.S.C. § 8107, sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The Office has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) as an appropriate standard for evaluating schedule losses, and the Board has concurred in such adoption. *James J. Hjort*, 45 ECAB 595 (1994). In the instant case, appellant has failed to provide any probative medical evidence that he has greater than a 15 percent impairment of his right upper extremity. The Act provides that, for a total, or 100 percent loss of use of an arm, an employee shall receive 312 weeks of compensation. 5 U.S.C. § 8107(c)(1). Inasmuch as appellant does not have a total, or 100 percent loss of use of his right arm, but rather a 15 percent loss, he is entitled to 15 percent of the 312 weeks of compensation, which is 46.8 weeks.

The decision of the Office of Workers' Compensation Programs dated January 28, 1999 is, hereby, affirmed.

Dated, Washington, D.C.
July 25, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member